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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,622	08/24/2006	Kenneth E. Irwin JR.	7445-000023/US/NPB	8972
22827 7590 02/23/2010 DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER D'AGOSTINO, PAUL ANTHONY	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,622

Applicant(s)

IRWIN ET AL.

Examiner

Paul A. D'Agostino

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This responds to Applicant's Arguments/Remarks filed 12/10/2009. Claims 1 and 11 have been amended. Claims 3-5, 12, and 18 stand cancelled. Claims 1-2, 6-11, and 13-17 are now pending in this Application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-2, 6-11, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,949,042 to Dietz, II et al. (Dietz) of record in view of U.S. Patent No. 5,893,797 to Marino et al. (Marino) of record.

In Reference to Claims 1, 6-7, and 10

Dietz discloses a standardized game apparatus (Fig. 2 "electronic validator machine" 30 and Fig. 4. Giving the claim the broadest reasonable interpretation and in light of the specification, Applicant discloses that "standardized" connotes that each game apparatus is "substantially identical" to one another with the differences in games played determined by the instant ticket itself (Applicant's Specification Page 11). Dietz discloses a standardized which accommodates a variety of pull-tab games (Col. 3 Lines 46-62) each pull-tab having its own "unique validation code" (Col. 2 Lines 23-36) in which each pull-tab game displays various forms and arrays of indicia (Col. 3 Lines 45-62; see also Figs. 1A and 1B and "multiple play gaming ticket" Col. 2 Lines 23-24) to provide a "self-contained" and "instant winner" lottery games (Col. 1 Lines 5-6). Further, Dietz discloses that as an alternative to validating games via a host computer 100 or its own RAM 94, the game information can be incorporated into the validation code 24 allowing the validator microprocessor 90 to perform game play without needed to continually have its RAM updated with information about active validation codes 24. Thus, the rejection of Claims X is maintained. ticket provides all the information needed

to play the game leaving the invention of Dietz a standardized machine), comprising:

the standardized electronic game device including:

a computer (Fig. 4 "microprocessor" 90);

a display operatively connected to said computer (Fig. 4 "video monitor" 50);

a game card interface operatively connected to said computer ("Pull Tab Acceptor Mechanism" 72), and

at least one {plurality of} instant lottery game{s} programmed in said computer (Fig. 1A showing multiple games 26 of one type wherein the computer is programmed with a "Play All" feature to play them in succession Col. 8 Lines 51-62); Dietz discloses various types of games to be played wherein indicia 22 can be varied (e.g., instead of numbers, fruit as well as non-fruit bars and bells can be used; and the indicia can be arrayed in a wide variety of ways including different numbers of rows and columns (Col. 3 Lines 50-60) as indicated on the pull-tab which type of game is to be played via the validation code/bar code 24 (Fig. 1B and Col. 4 Lines 55-57);

a game card (Fig. 1A pull-tab" 10) including game information stored thereon (Figs. 1A and 1B showing indicia 22, game 26 and bar code 24 information), said game card representing a single lottery game play (Figs. 1A and 1B displays at least a single game play 26, Dietz discloses a preferred embodiment of multiple game plays (Fig. 1A);

said game card adapted for connection with said interface wherein connection of said game card to said interface permits a player to initiate play of said game (Fig. 6 steps 106-116 after inserting pull tab into Fig. 4 "Pull Tab Acceptor Mechanism" 72 actuates drives rollers to initiate game (Fig. 5);

said game card comprising:

game information required by the lottery game programmed in said computer to initiate and complete a single play of the lottery game (Fig. 6 steps 112-124 and Fig. 1B barcode 24; wherein in an alternative to validating the game card via host computer 100 or local RAM 94 (Figs. 4 and 6), Dietz discloses "As another alternative, game play information could be incorporated into the validation code 24 to allow the validator microprocessor 90 to perform game play without needing to continually have its RAM 94 updated with information about active validation codes 24." Col. 8 Lines 39-43; thus, providing initiating and completing at least a single play of the game by data solely provided by the game itself),

the game information including a types of games to be played, whether the game play is a winner, and respective prize award for the single lottery game (Dietz discloses the type of game, "the validation code 24 could uniquely encode both the origin of the pull-tab 10 and the contents of the pull-tab games 10." (Col. 4 Lines 55-57); Dietz discloses pull-tabs 10 indicating whether the game is a winner with a pay table on its face (Fig. 1A) for human interpretations and this same information is encoded in the bar code 24 such that winners are indicated on the pay lines of Figs. 3A and 3B as specified in Fig. 6 steps 120-122 and paths indicated as "yes" such that "In this embodiment, if there are matching numbers along any horizontal, vertical or diagonal line of an array, the play is a winning play." (Col. 2 Lines 34-36); and Dietz discloses a respective prize award (Fig. 1A pays and bonus pays are shown in a pay table on face of the pull-tab 10 (Fig. 1A) wherein "The player is then given the option of having the plays sequentially

displayed on the validator monitor or of immediately cashing out. As part of a game display, the validator monitor will show which indicia combinations create winning plays and keep track of accumulated winnings." (Col. 2 Lines 50-57);

wherein the display and outcome of the lottery game is presented to the player via said display (Fig. 6 step 120 and Figs. 3A and 3B) and only after connecting said game card with said game card interface (Fig. 6 steps 106-108 precede steps 118 and subsequent);

wherein said game information on said game card is contained in printed conductive elements {conductive ink} ("metallic ink" Col. 7 Lines 5-14);

the gaming device having a standardized hard-wired configuration (Examiner interprets this limitation to mean that the gaming device is hardware configured in such a way as to not vary it is functioning from game to game. Thus, Dietz discloses a standardized hard-wired configuration as previously discussed wherein, much like video games, the base console is standardized and the game cartridges determine the game to be played. Here, the pull-tabs determine the game to be played on a standard gaming machine which reads the cards (Fig. 2)) that responds to various patterns of said printed conductive elements so as to conduct the particular lottery game contained by said game card, including game outcome and prize award indication (patterns are indicated by bar code 24 as outlined in Fig. 6 steps 106-124 wherein the card is inserted, read and validated, and the game executed as instructed by the data encoded on the card), based solely on the configuration of said printed conductive elements on said card with retrieval of other game information particular to said game card (As

previously discussed, pull-tab 10 contains game play information integrated into the validation code allowing the microprocessor 90 to play the game solely based on the pull-tab ticket information without the need to check the RAM 94 or host computer 100 (Col. 8 Lines 39-43)), and

wherein the outcome of said game is predetermined solely by said information on said game card (predetermined outcomes are shown on the face of the pull-tab ticket of Fig. 1A wherein "In one form of such a pull-tab, the validation code is a unique bar code and the multiple plays are twenty sets of single digit numbers each arrayed in three rows and three columns. In this embodiment, if there are matching numbers along any horizontal, vertical or diagonal line of an array, the play is a winning play." (Col. 2 Lines 30-35) with the prizes predetermined as indicated on the pay table in human readable form on the face of the pull-tab (Fig. 1A) and encoded into the bar code (validation code) 24), and is not known by the player (Dietz discloses that the pull-tabs can be played in "unopened form" Col. 5 Lines 1-2) and is not changed by any subsequent play (The pull-tabs of Dietz are fixed (Fig. 1B) and are unalterable by the validation device).

However, Dietz discloses a gaming and validation machine (Fig. 2) and is silent on a device which is hand-held.

Marino teaches of a hand-held multi-function electronic lottery device (Title) wherein lottery tickets are inserted for comparison to winning lottery numbers on a portable device (Figs. 1-3). Marino provides this invention in order to play a lottery game on a device that is holdable in a hand of a user (Abstract) to make playing the lottery game and interpreting the results "simple" (Fig. 1 and " (Col. 3 Lines 10-15) and

additionally provides a standardized device (Fig.2) that is "inexpensive to manufacture" (Col. 3 Lines 10-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the hand-held lottery ticket reading device as taught by Marino into the teachings of Dietz in order to provide a standardized lottery game device holdable in the hand of a user upon which lottery games can be played and is a low cost investment as the device would be inexpensive to manufacture, thus helping to expand the market of instant lottery games much like affordable game consoles help to expand the market for video game cartridges.

Additionally, Dietz discloses the claimed invention except for it being hand-held. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the lottery validator hand-held, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. Here, the pull-tabs solely determine the game which is played on a standardized validation machine. Hence, there is no new or unexpected result since the same standardized functionality was merely made portable.

In regards to Claim 11, Applicant claims a plurality of the elements of Claims 1 and 6. While Dietz discloses a single embodiment, it can be seen from the background that Dietz is concerned with serving a plurality of "lottery promoters" (Col. 1 Line 43) such that it can be reasonably inferred what is also taught is a commensurate plurality

of games, users, validation devices and game cards. Further, Dietz discloses a host system and so it is reasonably assumed that there is a plurality of similarly situated systems interfacing with the host system. The system of Dietz,

In Reference to Claim 2

Dietz as modified by Marino discloses wherein predetermined outcomes are prize amounts (Fig. 1A indicating predetermined outcomes are prize amounts).

In Reference to Claim 8-9

Dietz as modified by Marino discloses wherein said predetermined game outcome is represented by one or more impedances (Giving the claim the broadest reasonably interpretation in light of the specification, Examiner takes that this limitation to mean that the information encoded on the pull-tab in metallic ink imparts a characteristic resistance) printed in said conductive ink and said computer is effective to determine the electronic signature of said impedances when said game card is connected to said interface wherein said electronic signatures are a measure of the resistance of said impedances. (Dietz discloses that "the validation code 24 could be printed on the pull tab card 10 with a metallic ink and then sensed with a validation code 78 reader" Col. 7 Lines 5-15; thus the metallic ink imparts a characteristic impedance (resistance) based on its pattern interpretable into information by the computer which is evaluating the resistance levels associated with the data encoded on the pull tab card (Fig. 4).

In Reference to Claim 11

See rejection of Claim 1. Further, it appears that Applicant is claiming the plurality of different types of games are played by a plurality of users each on respective plurality of standardized hand-held electronic devices with respective game cards. Examiner notes that Applicant is not claiming a system or network, just that there are pluralities of the elements of Claim 1.

Examiner takes Official Notice of the fact that merely claiming multiples of the elements of Claim 1, namely, the hand-held devices, game cards, and users would only require routine skill in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to assume a plurality of the aforementioned devices since lotteries naturally imply more than one user and so the need for multiples of the aforementioned claimed invention to service the instant game market and consumer base and so the recitation of a plurality of devices, cards, and users would be within the level of ordinary skill in the art.

In Reference to Claim 13

Dietz as modified by Marino discloses wherein said computer applies power to said circuit elements through said interface and determines said data from the electrical signatures of said circuit elements (Dietz discloses the pull-tab is sensed by the Pull Tab Acceptor Mechanism 72 and then microprocessor activates the drive rollers 76 advancing the pull-tab 10 such that power is applied once the card is sensed by the computer to move the drive rollers) allow the validation code to be read (Col. 6 Lines

60-68) which bears an electronic signature printed in metallic ink by the reader 78 (Col. 7 Lines 5-15).

In Reference to Claim 14

Dietz as modified by Marino discloses wherein said card additionally includes a barcode including data functionally related to said information ("unique bar code" 27 Col. 4 Lines 48-58; Col. 6 Lines 67 and Col. 7 Lines 1-4).

In Reference to Claim 15

Dietz as modified by Marino discloses wherein said interface is configured to permit a player to insert said cards into said device and to make an electrical connection between said data and said computer (Figs. 4 and 6);

In Reference to Claim 16

Dietz as modified by Marino discloses a switch operatively connected to said computer and aligned with a predetermined position on said cards wherein said switch is effective to permit a player to play said game (Fig. 5 wherein the feed triggers position sensor 74 when the card is in the right position. Examiner reasonably interprets the switch aligned with the leading edge of the properly positioned card (Col. 6 Lines 55-65).

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz in view of Marino and further in view of U.S. Patent No. 5,621,200 to Irwin, Jr. et al. (Irwin).

Dietz as modified by Marino discloses a system substantially equivalent to Applicant's claimed invention wherein said cards include a scratch-off coating applied over at least a portion of said conductive elements wherein removal of said scratch-off coating by a player alters said conductive elements (Dietz discloses known scratch off gum-like material which can be rubbed off (Col. 1 Lines 35-41).

However, Dietz is not explicit wherein removal of the coating changes the conductive elements.

Irwin teaches of an instant scratch ticket (Fig. 1) validation machine (Fig. 38) wherein "if the scratch-off area 372 being tested has been at least partially removed, the associated removal of a portion of the conductive area 370 creates an open circuit under that particular scratch-off area 372. Hence, no AC detection signal is routed to the associated capacitor plate in the electronic verification machine 108, indicating that the integrity of the play spot area 372 has been changed" (Col. 23 Lines 25-41). Irwin teaches this system in order to check the authenticity and integrity of the play spot areas (Col. 23 Lines 25-26) for tickets which are susceptible for tampering or alteration (Col. 1 Lines 20-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the detection of a change in the conductive elements as taught by Irwin into the teachings of Dietz in order to check for evidence of tampering with the coated areas of the card.

6. Not intending to be duplicative, Examiner presents new grounds of rejection to isolate the claimed hand-held limitation. It is not hard to discover that Applicant has anticipated the claimed invention but for the hand-held limitation. Representative of one of Applicant's inventions is U.S. Patent No. 5,621,200 to Irwin. Irwin discloses that game information can be integrated into the validation code for low level prizes and that validation would be computed by the lottery central computer for larger cash prizes in order to increase the security of the system with respect to high tier prizes or redemption values (Col. 29 Lines 53-67). This also makes Irwin's verification machine 108 standardized as the games are determined solely by the game ticket. The only remaining limitation not anticipated is that Irwin doesn't disclose that the verification machine 108 (Fig. 14) is not a hand-held device. For this, it has been previously discussed that making something portable would only require routine skill in the art and so the claims are further rejected under 103 as obvious in view of Irwin.

7. Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irwin in view of Marino of record.

Irwin discloses a game apparatus (Fig. 17 "external verification machine" 108 and Col. 14 Lines 17-34) for play of an instant lottery game (Fig. 1), comprising:

- a standardized electronic game device (Fig. 14 108) including:

- a computer ("Processor" 220);

- a display operatively connected to said computer (Fig. 17 "Display Panel" 180;

Col. 13 Lines 20-45);

a game card interface operatively connected to said computer (Fig. 17 "Ticket Slot" 182; Col. 13 Lines 45-55); and

at least one instant lottery game programmed in said computer (processor programmed to execute games rules e.g., "game rules may require that no more than three play spot areas be rubbed off to reveal the underlying indicia" (Col. 18 Lines 18-22);

a game card representing a single lottery game play (Fig. 1), said game card adapted for connection with said interface wherein connection of said game card to said interface permits a player to initiate play of said game (Col. 3 Lines 13-28 and Col. 14 Lines 17-34),

said game card comprising game information required by the lottery game programmed in said computer to initiate and complete a single play of the lottery game (bar code 80 Col. 28 Lines 16-28),

the game information including a type of game to be played (Col. 29 Lines 65-68 and Col. 30 Lines 1-22), whether the game play is a winner (Col. 31 Lines 1-19), and respective prize award for the single lottery game play (Col. 31 Lines 1-19),

wherein the display and outcome of the lottery game is presented to the player via said display and only after connecting said game card with said game card interface (Col. 31 Lines 1-19);

wherein said game information on said game card is contained in printed conductive elements (Col. 3 Lines 29-38); and

said game device having a standardized hard-wired configuration that responds to various patterns of said printed conductive elements so as to conduct the particular lottery game contained by said game card, including game outcome and prize award indication, based solely on the configuration of said printed conductive elements on said card without retrieval of other game information particular to said game card (Col. 30 Lines 23-50); and

wherein the outcome of said game is predetermined solely by said information on said game card, is not stored in or downloaded to said game device (Col. 29 Lines 53-65 via bar code 80), and is not known by the player until played on said electronic game device (player cannot observe the data stored as electronic signatures on the ticket or the bar code (Col. 29 Lines 24-50) or what is concealed under the opaque coatings less risking void the ticket (Fig. 1 and Col. 20 Lines 51-68 and Col. 18 Lines 18-48) and is not changed by any subsequent play of the game with said electronic game device (Fig. 1 the game card information is fixed and unalterable through subsequent game play).

However, Irwin is silent on a hand-held validation machine.

Marino teaches of a hand-held multi-function electronic lottery device (Title) wherein lottery tickets are inserted for comparison to winning lottery numbers on a portable device (Figs. 1-3). Marino provides this invention in order to play a lottery game on a device that is holdable in a hand of a user (Abstract) to make playing the lottery game and interpreting the results "simple" (Fig. 1 and " (Col. 3 Lines 10-15) and additionally provides a standardized device (Fig.2) that is "inexpensive to manufacture" (Col. 3 Lines 10-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the hand-held lottery ticket reading device as taught by Marino into the teachings of Irwin in order to provide a standardized lottery game device holdable in the hand of a user upon which lottery games can be played and is a low cost investment as the device would be inexpensive to manufacture, thus helping to expand the market of instant lottery games much like affordable game consoles help to expand the market for video game cartridges.

Additionally, Irwin discloses the claimed invention except for it being hand-held. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the lottery validator hand-held, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. Here, the pull-tabs solely determine the game which is played on a standardized validation machine. Hence, there is no new or unexpected result since the same standardized functionality was merely made portable.

With respect to Claim 11, see rejection of Claim 1 (above). Further, it appears that Applicant is claiming the plurality of different types of games are played by a plurality of users each on respective plurality of standardized hand-held electronic devices with respective game cards. Examiner notes that Applicant is not claiming a system or network, just that there are pluralities of the elements of Claim 1.

Examiner takes Official Notice of the fact that merely claiming multiples of the elements of Claim 1, namely, the hand-held devices, game cards, and users would only

require routine skill in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to assume a plurality of the aforementioned devices since lotteries naturally imply more than one user and so the need for multiples of the aforementioned claimed invention to service the instant game market and consumer base and so the recitation of a plurality of devices, cards, and users would be within the level of ordinary skill in the art.

Response to Arguments

8. Applicant's arguments filed 12/10/2009 have been fully considered but they are not persuasive. Applicant argues (see Applicant's Arguments/Remarks pages 6-9) that the claimed invention is a standardized validation machine whereby the game play is determined by the electronic signatures on the game ticket. Given this, Dietz does not present a standardized machine since Dietz must be in communication with a host computer to acquire a library of game results that are unique to particular game cards. Examiner respectfully disagrees and has provided citations from both Irwin and Dietz of embodiments wherein validation and game play data are integrated not requiring the need to interface with the validator machine RAM or host computer.
9. Applicant asserts (see Applicant's Arguments/Remarks page 8) that Marino is unrelated to Applicant's claimed invention. Examiner respectfully disagrees and has further explained Marino's relevance as part of the rejection of the claims. Thus, the rejection of Claims 1-2, 6-11, and 13-17 is maintained.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is provided in the Notice of References Cited.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571) 270-1992. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m..
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul A. D'Agostino/
Examiner, Art Unit 3714